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Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of)
)
Advanced Television Systems) MM Docket No. 87-268
and their Impact upon the)
Existing Television Broadcast)
Service)

To: The Commission

**REPLY COMMENTS OF THE DEPARTMENT OF SPECIAL DISTRICTS,
SAN BERNARDINO COUNTY, CALIFORNIA, IN RESPONSE TO THE
SIXTH FURTHER NOTICE OF PROPOSED RULE MAKING**

The Department of Special Districts, San Bernardino County, California ("Special Districts"), by their counsel, here respectfully present Reply Comments in the referenced proceeding. These Reply Comments will discuss or refer only to the submissions of the following commenting parties: Association for Maximum Service Television, Inc. et al. ("Broadcasters"), National Translator Association ("NTA"), Community Broadcasters Association ("CBA"), Association of Federal Communications Commission Consulting Engineers ("AFCCE"), and du Treil, Lundin and Rackley, Inc. (telecommunications consulting engineers -- "dT/L/R").

Special Districts begin these Reply Comments with a discussion of the timing of LPTV and TV translator entry to Digital Television (DTV), again urging on the record developed that these established TV services be authorized to inaugurate DTV

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operations with a minimum of formalities and at the earliest possible date. Then Special Districts take up implementation issues not related to the Core Spectrum concept, and finally we focus briefly on Core Spectrum issues.

1. Early Transition Scenario.

We commend the suggestion of NTA (p. 7) that the Commission's Rules and Regulations be amended to permit Low Power Television Stations and TV translators to employ either amplitude modulation (A5) or "the digital television standard."¹ NTA suggests that this implementation step be taken, "as soon as full service digital TV stations are on the air," NTA Comments, p. 7. However, no reason is suggested for waiting until then. Special Districts urge instead that TV translator and LPTV operators be authorized to initiate digital service beginning with adoption of the DTV Table. Then it will be up to the licensees, in response to market forces and viewer demand, to take the digital development and further it, as they are able and where and when they will.

Already translators and LPTV stations are required to operate on a secondary, non-interference basis. It is their responsibility to correct, at their own expense, any condition of

¹ NTA appears to be correct in its analysis that this could be done merely by adding six words to the end of §74.736(a) of the Rules and Regulations: "or by the digital television standard." That standard in turn is set forth in the new §73.682(d) adopted in the Fourth Report and Order herein (released on December 27, 1996), Appendix A. No other change is necessary for translators and LPTV to acquire normal digital authorization, because they are not made subject, by cross-reference, to §73.682, see §74.780.

interference, §74.703 of the Rules. Since 1956 thousands of translators and since 1981 nearly 2,000 LPTV stations have been authorized, yet there is virtually no record of destructive interference caused by them. The Commission should authorize all TV translators and LPTV stations, upon simple notification, to utilize digital television (DTV) transmissions, to as full or as limited extent as they see fit.²

Earlier in this proceeding, the Commission decided not to include LPTV's and TV translators among those entities eligible for licensing of a second (temporary) DTV channel. In the absence of two channels that could be simulcast to minimize disruption of audiences during the transition, the simplest and least regulatory approach also may be the least disruptive: To permit the operator to proceed to DTV at any time, guided only by that operator's perception of public need, desire and interest.

2. Issues Not Related to the Core Spectrum Concept

The key areas for "non-Core" discussion are (A) practical limitations on full replication; (B) Measures supporting a role of TV translators during the DTV transition; and (C) retention of translator and LPTV secondary status.

(A) Practical Limitations on Full Replication

Other commenting parties corroborate Special Districts'

² Applicants and licensees proposing LPTV, as opposed to TV translator operation, are required to so indicate on the application, or later inform the Commission by letter. To enable interested parties to monitor the use of DTV in these services, the same notification requirement can be adopted, for any station intending to broadcast a significant part of the day in DTV mode.

contention that full replication of existing NTSC facilities is unlikely to occur. As noted by duT/L/R, p. 2, DTV power is "average" power, while NTSC is "peak" power. An average low band VHF TV station constructing a DTV replica of its coverage will need an ERP of 3,521 kW (compared with existing facilities, ERP average of 87.4 kW), implying a new transmitter with a mind-boggling peak power rating of 550 kW. As to such facilities, many commenting parties agree that the transmitter and antenna equipment cannot be manufactured affordably, nor the stations constructed, nor operations be done lawfully and safely with existing and new concerns about RF radiation exposure and the environment.

duT/L/R suggest (p. 4) that the planning goal of replication should be relaxed, extending DTV coverage to the Grade A contour. They offer calculations to indicate, when compared with the Commission's proposal, a very small percentage of total TV households (approximately four per cent) would not receive new DTV service under this plan (p. 5). CBA, p. 8, endorses this Grade A contour approach. AFCCE expresses the same problem as one of attempting, by the force of huge power increases, to extend coverage far beyond the radio horizon. Instead, they would limit the UHF DTV band to ERP levels of 500 kW. Broadcasters, in their ambitious presentation of an alternative Modified Table, would make allotments based upon parameters that combine power and tower height, and space new DTV stations apart in accordance with a set of desired-to-undesired (D/U) signal ratios (especially see their

Comments, p. 44). This approach avoids the use of a power maximum altogether. Individual stations would be free to increase power if they wished, to enhance their range of interference-free service.

Special Districts remain convinced that the Commission will not be able to mandate an across the board replication of NTSC facilities. We believe that any one of the refinements offered in this record, and possibly a hybrid drawing upon more than one, can do a great deal to impart realism to the implementation process. However, once we get past that point, there arise a group of second-order decisions that must be explored.

(B) Measures Supporting A Translator Role During the Transition

An LPTV-Sensitive Table. As related in our Comments, Special Districts remain concerned that the selection of DTV channels was made as though licensed TV translators and LPTV facilities did not exist. Broadcasters, by relaxing the Core Channels assumption, were able to reduce the estimated destruction and displacement of translators and LPTV's from 3,098 (Baseline Table, i.e. perhaps fewer than the FCC proposal) to 1,774 under the Modified Table (Broadcasters, p. 28). The remaining net of 1,774 is far too high and, indeed, *would be devastating*. For this reason alone, the Commission should re-run an adaptation of the Baseline Table or Modified Table (whichever be the choice) at least with the constraint that, given two usable channels, one vacant and one licensed for translators and LPTV, then the vacant channel shall be selected for DTV use, unless some other selection

criterion comes into play.

Broadcasters identified a number of deficiencies in the proposed DTV Table, which they corrected in the course of preparing their Baseline Table (Comments, pp. 17-24). Thereafter, by relaxing the Commission Core Channel approach, Broadcasters came up with the new Modified Table. Their approach sought to preserve as many of the original FCC DTV Table assignments as possible, specifically always retaining a proposed assignment in Channels 7-52 where that would not increase interference into existing NTSC facilities (Id., p. 43). Special Districts submits that the Baseline Table refinements and the modifications that will be needed, to make the replication approach more realistic, in effect moot the original FCC Table. New parameters and a new Table should be published, through further notice-and-comment rule making, both to minimize additional generic flaws, and to afford notice pursuant to the Administrative Procedure Act, see 5 U.S.C. §553. The benefit of preserving translator and LPTV service to the extent feasible, by itself, is warrant for this addition step in Table building. The stakes in getting it right are too high to worry excessively about a few months' additional delay.

Minimum Power. Special Districts do not agree with Broadcasters that full service DTV stations should be exempt from minimum power requirements. The Commission's proposed minimum powers are not particularly onerous, Sixth Further Notice, ¶94, p. 40: 1 kW ERP for low band VHF, 3.2 kW ERP for high band VHF, and 50 kW ERP for UHF channels. (The most powerful LPTV stations

actually come within hailing distance of these guideposts.) A broadcaster being accorded the privilege of a "first wave" DTV authorization, through grant of a second channel, should be required to meet some minimum facilities guideline. Otherwise, the opportunity exists for some operators to inaugurate minimal service, merely warehousing spectrum while other clamor to make productive use of it. One possible approach would be to authorize and permit construction below the minimum power levels, provided that, as an automatic consequence of such choice by the applicant, its facility will be treated as a secondary, DTV low power TV station. It would be entitled to first-in-time priority over other LPTV's, and to displacement relief, but would be secondary to subsequently arriving full serve DTV's.

In its Comments, NTA recommends that the Commission gradually drop its regulation of LPTV and TV translators, now based on the archaic idea of maximum transmitter power output, and shift over to a maximum ERP approach, appropriate to each frequency band (NTA, p. 6). This change would have little effect on the authorization process, because each applicant already is limited by the D/U interference ratios with existing facilities, as analyzed by the FCC prior to licensing. NTA states that its membership have not reached a consensus on the proposed ERP values (Id.). However, for compatibility with the DTV rollout, it makes sense for the Commission to employ as its maximum ERP's the same minimum power figures to be adopted for DTV. Above that threshold, DTV; below it, LPTV. LPTV operators using or requiring

more ERP could be grandfathered, or accommodated on an ad hoc waiver basis.

(3) Retain Secondary Status

The benefits foreseen here by Special Districts, from the Commission's prompt and aggressive use of TV translators and LPTV stations to facilitate the introduction of DTV will not be realized, if LPTV's are accorded primary status. Fortunately, those advocating a primary status for low power television are but few, notably CBA, Comments, ¶¶29-30, p. 20. Special Districts strongly agree with CBA that the Commission cannot ignore LPTV in its plans, because that would denote a misunderstanding of the limited interference-avoiding import of "secondary" status. But we strongly *disagree* that secondary status should be modified or abandoned.

Secondary status will enable the Commission to authorize new LPTV DTV services, knowing that implementation flaws can be corrected later, because the facilities are secondary. CBA's position also runs contrary to Special Districts' advocacy of LPTV participation here at an early date. Early implementation of LPTV DTV is feasible on a secondary basis. Implementation on a primary basis probably would need to wait until the transition was at or near completion. For example, Broadcasters' approach, with which we agree, places great emphasis on the Commission adopting a liberal policy toward DTV station modifications, Comments, pp. 48-52. Given the many uncertainties in this saga, such flexibility may be essential. Secondary LPTV's can join in, and have their

authorizations modified as needed. Primary LPTV's would not possess the same flexibility, and probably would need to await full transition.

(D) Implementation: Conclusions.

An integration of TV translators and LPTV at the outset may solve many DTV implementation problems that otherwise seemed intractable. With the apparent need to settle for some type of reduced coverage, shy of full Grade B contour replication, the new permittees, the translator operators and the rural residents would be free to fill in coverage with secondary, translator and low power facilities.

Special Districts urge that, no later than the adoption of a final Table, the Commission should (1) establish a simple notification procedure, whereby all licensed TV translators and LPTV's stations would be authorized to inaugurate DTV operations, fully or partially; (2) Eliminate LPTV filing windows and permit translator and LPTV applications to be filed 365 days a year on a first-come basis;³ (3) Make TV translator and LPTV channel changes into minor changes, with a simple notification, making all low power displacement relief faster and easier.

³ The Commission retains an understandable Tidal Wave Hydrophobia, from the days of LPTV influx, 1980 to 1984. However, all this was before the imposition of filing fees and a numerical limit (five per window, which could be replaced with five per year). The Window system of rationing has outlived its usefulness, and it is no longer clear whether it reduces the total number of filings in any measurable degree.

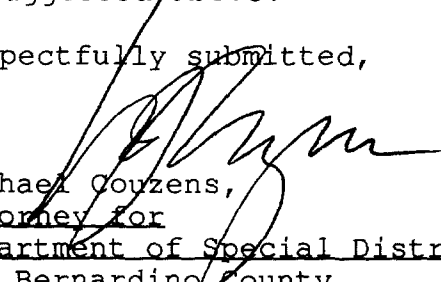
3. The Core Spectrum Approach

The Commission's professed desire eventually to shift TV broadcasting to the use of Channels 7 - 51, and these alone, is at the center of a political fire storm. Special Districts reiterate that they oppose this contraction, certainly until the DTV transition has been completed successfully. Realistically, we do not expect our view to tip any balances or decide any battles.

We have noted before that Broadcasters, with their Modified Table, taking full advantage of Channels 2 through 69 inclusive, still forecast the displacement or loss of 1774 TV translators and LPTV stations. We submit that one challenge before the Agency here is to do everything within its ability to reduce the losses from that level. The greater loss implied by any premature non-broadcast reallocation is sufficient by itself not to proceed along that path.

For these reasons, Special Districts requests that the proposals herein be modified, as suggested above.

Respectfully submitted,


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January 24, 1996.

CERTIFICATE OF SERVICE

I, Michael Couzens, certify that on Friday, January 24, 1997, copies of the foregoing Reply Comments were sent by First Class Mail, with postage fully pre-paid, and addressed to the following persons. The foregoing is sworn to under the penalties for perjury provided in the laws of the United States.

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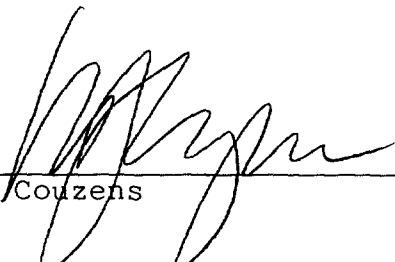
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